

**Senate File 483 - Introduced**

SENATE FILE 483

BY PETERSEN

**A BILL FOR**

1 An Act relating to sexual harassment in employment and working  
2 relationships, and including effective date provisions.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.   216.6B   Additional unfair or  
2   discriminatory practice — sexual harassment in employment.

3     1. As used in this section, "*sexual harassment*" means  
4   persistent, repetitive, or highly egregious conduct directed at  
5   a specific individual or group of individuals that a reasonable  
6   person would interpret as intentional harassment of a sexual  
7   nature, taking into consideration the full context in which the  
8   conduct occurs, which conduct threatens to impair the ability  
9   of a person to perform the duties of employment or otherwise  
10  function normally within an institution responsible for a  
11  person's care, rehabilitation, education, or training.

12    2. a. All employers, employment agencies, and labor  
13  organizations have an obligation to ensure a workplace that is  
14  free from sexual harassment.

15    b. All persons who engage a person to perform work or  
16  services have an obligation to ensure a working relationship  
17  with that person that is free from sexual harassment.

18    3. Every employer shall:

19    a. Adopt a written policy against sexual harassment which  
20  shall include all of the following:

21      (1) A statement that sexual harassment in the workplace is  
22  unlawful.

23      (2) A statement that it is unlawful to retaliate against  
24  an employee for filing a complaint of sexual harassment or for  
25  cooperating in an investigation of sexual harassment.

26      (3) A description and examples of sexual harassment.

27      (4) A statement of the range of consequences for employees  
28  who commit sexual harassment.

29      (5) If the employer has more than five employees, a  
30  description of the process for filing internal complaints about  
31  sexual harassment and the names, addresses, and telephone  
32  numbers of the person or persons to whom complaints should be  
33  made.

34      (6) The complaint process of the appropriate local, state,  
35  and federal employment discrimination enforcement agencies, and

1 directions as to how to contact such agencies.

2     *b.* Post in a prominent and accessible location in the  
3 workplace, a poster providing, at a minimum, the elements of  
4 the employer's sexual harassment policy required by paragraph  
5 "a".

6     *c.* Provide to all employees a written copy of the employer's  
7 policy against sexual harassment.

8     4. *a.* An employer shall provide a copy of the employer's  
9 written policies to new employees when hired.

10    *b.* If an employer makes changes to its policy against sexual  
11 harassment, the employer shall provide to all employees a  
12 written copy of the updated policy.

13    5. The commission shall prepare and provide to employers a  
14 model policy and a model poster, which may be used by employers  
15 for the purposes of this section.

16    6. An assertion that an employee did not receive the  
17 information required to be provided by this section shall  
18 not result in the automatic liability of any employer to any  
19 current or former employee or applicant in any action alleging  
20 sexual harassment. An employer's compliance with the notice  
21 requirements of this section does not preclude the employer  
22 from liability for sexual harassment of any current or former  
23 employee or applicant.

24    7. *a.* Employers and labor organizations are encouraged to  
25 conduct an education and training program for all new employees  
26 and members that includes at a minimum all the information  
27 outlined in this section within one year after commencement of  
28 employment.

29    *b.* Employers and labor organizations are encouraged to  
30 conduct an annual education and training program for all  
31 employees and members that includes at a minimum all the  
32 information outlined in this section.

33    *c.* Employers are encouraged to conduct additional training  
34 for new supervisory and managerial employees and members within  
35 one year after commencement of employment or membership, which

1 should include at a minimum the information outlined in this  
2 section, the specific responsibilities of supervisory and  
3 managerial employees, and the actions that these employees must  
4 take to ensure immediate and appropriate corrective action in  
5 addressing sexual harassment complaints.

6 *d.* Employers, labor organizations, and appropriate state  
7 agencies are encouraged to cooperate in making this training  
8 available.

9 8. *a.* An employer shall not require any employee or  
10 prospective employee, as a condition of employment, to sign an  
11 agreement or waiver that does any of the following:

12 (1) Prohibits, prevents, or otherwise restricts the  
13 employee or prospective employee from opposing, disclosing,  
14 reporting, or participating in an investigation of sexual  
15 harassment.

16 (2) Except as otherwise permitted by state or federal law,  
17 purports to waive a substantive or procedural right or remedy  
18 available to the employee with respect to a claim of sexual  
19 harassment.

20 *b.* An agreement to settle a sexual harassment claim shall  
21 expressly state all of the following:

22 (1) That the agreement does not prohibit, prevent, or  
23 otherwise restrict the individual who made the claim from doing  
24 any of the following:

25 (a) Lodging a complaint of sexual harassment committed by  
26 any person with the commission, the federal equal employment  
27 opportunity commission, or any other local, state, or federal  
28 agency.

29 (b) Testifying, assisting, or participating in any manner  
30 with an investigation related to a claim of sexual harassment  
31 conducted by the commission, the federal equal employment  
32 opportunity commission, or any other local, state, or federal  
33 agency.

34 (c) Complying with a valid request for discovery in relation  
35 to civil litigation or testifying in a hearing or trial

1 related to a claim of sexual harassment that is conducted by a  
2 court, pursuant to an arbitration agreement, or before another  
3 appropriate tribunal.

4 (d) Exercising any right the individual may have pursuant to  
5 state or federal labor relations laws to engage in concerted  
6 activities with other employees for the purposes of collective  
7 bargaining or mutual aid and protection.

8 (e) (i) For the purposes of this subparagraph division,  
9 "*pursuing*" means taking steps to file a criminal complaint  
10 including but not limited to speaking with a peace officer  
11 as defined in section 801.4 or a county attorney regarding  
12 criminal harassment, filing a criminal complaint, or assisting  
13 a peace officer or county attorney in the prosecution of a  
14 criminal complaint.

15 (ii) Pursuing a criminal complaint.

16 (2) That the agreement does not waive any rights or claims  
17 that may arise after the date the settlement agreement is  
18 executed.

19 c. Any provision of an agreement to settle a sexual  
20 harassment claim that violates paragraph "b" shall be void and  
21 unenforceable against the individual who made the claim.

22 d. Nothing in subparagraph (2) of paragraph "b" shall be  
23 construed to prevent an agreement to settle a sexual harassment  
24 claim from waiving or releasing the claimant's right to seek  
25 or obtain any remedies relating to sexual harassment of the  
26 claimant by another party to the agreement that occurred before  
27 the date on which the agreement is executed.

28 e. (1) (a) (i) For the purpose of assessing compliance  
29 with the provisions of this section, the commission may with  
30 48 hours' notice, at reasonable times and without unduly  
31 disrupting business operations, enter and inspect any place  
32 of employment, question any person who is authorized by  
33 the employer to receive or investigate complaints of sexual  
34 harassment, and examine an employer's records, policies,  
35 procedures, and training materials related to the prevention of

1 sexual harassment and the requirements of this section.

2 (ii) An employer may agree to waive or shorten the 48-hour  
3 notice period.

4 (iii) As used in subparagraph subdivision (i), the term  
5 "records" includes de-identified data regarding the number of  
6 complaints of sexual harassment received and the resolution of  
7 each complaint.

8 (b) The employer shall at reasonable times and without  
9 unduly disrupting business operations make any persons who are  
10 authorized by the employer to receive or investigate complaints  
11 of sexual harassment and any records, policies, procedures,  
12 and training materials related to the prevention of sexual  
13 harassment and the requirements of this section available to  
14 the commission or designee.

15 (2) Following an inspection and examination pursuant to  
16 subparagraph division (a) of this paragraph "e", the commission  
17 shall notify the employer of the results of the inspection and  
18 examination, including any issues or deficiencies identified,  
19 provide resources regarding practices and procedures for the  
20 prevention of sexual harassment that the employer may wish  
21 to adopt or utilize, and identify any technical assistance  
22 that the commission may be able to provide to help the  
23 employer address any identified issues or deficiencies. If  
24 the commission determines that it is necessary to ensure the  
25 employer's workplace is free from sexual harassment, the  
26 employer may be required, for a period of up to three years, to  
27 provide an annual education and training program that satisfies  
28 the provisions of subparagraph (4) of this paragraph "e" to all  
29 employees or to conduct an annual, anonymous working-climate  
30 survey, or both.

31 (3) Pursuant to and consistent with section 216.15,  
32 subsection 5, the commission shall keep the records, materials,  
33 and information related to or obtained through an inspection  
34 carried out through an investigation or effort to resolve a  
35 discriminatory or unfair practice confidential.

1 (4) If required by the commission pursuant to subparagraph  
2 (2) of this paragraph "e", an employer shall conduct all of the  
3 following:

4 (a) An annual education and training program for all  
5 employees that includes at a minimum all the information  
6 outlined in this section.

7 (b) An annual education and training program for  
8 supervisory and managerial employees that includes at a minimum  
9 all the information outlined in subparagraph (2) of this  
10 paragraph "e", the specific responsibilities of supervisory  
11 and managerial employees, and the actions that these employees  
12 must take to ensure immediate and appropriate corrective action  
13 taken in addressing sexual harassment complaints.

14 9. The commission shall adopt rules pursuant to chapter 17A  
15 to administer this section.

16 Sec. 2. Section 19B.12, subsection 4, Code 2019, is amended  
17 to read as follows:

18 4. The department of administrative services for all state  
19 agencies, and the state board of regents for its institutions,  
20 shall adopt rules and appropriate internal, confidential  
21 grievance procedures to implement [this section](#), and shall  
22 adopt procedures for determining violations of [this section](#)  
23 and for ordering appropriate dispositions that may include,  
24 but are not limited to, discharge, suspension, or reduction in  
25 rank or grade as defined in [section 8A.413, subsection 19](#). An  
26 accurate representation of all complaints of sexual harassment  
27 shall be forwarded to the employee accused of harassment and  
28 the supervisor of the complainant accompanied by a statement  
29 indicating that retaliation is prohibited by section 216.11,  
30 subsection 2.

31 Sec. 3. Section 216.2, subsection 15, Code 2019, is amended  
32 to read as follows:

33 15. "*Unfair practice*" or "*discriminatory practice*" means  
34 those practices specified as unfair or discriminatory in  
35 sections 216.6, [216.6A](#), [216.6B](#), [216.7](#), [216.8](#), [216.8A](#), [216.9](#),

1 216.10, 216.11, and 216.11A.

2 Sec. 4. Section 216.15, subsection 1, Code 2019, is amended  
3 to read as follows:

4 1. Any person claiming to be aggrieved by a discriminatory  
5 or unfair practice may, in person or by an attorney, ~~make,~~  
6 ~~sign, and file with~~ send to the commission a verified, ~~written~~  
7 complaint which shall state the name and address of the person,  
8 employer, employment agency, or labor organization alleged  
9 to have committed the discriminatory or unfair practice of  
10 which complained, shall set forth the particulars thereof, and  
11 shall contain such other information as may be required by the  
12 commission. The commission, a commissioner, or the attorney  
13 general may in like manner make, sign, and file such complaint.  
14 The complaint of the commission, commissioner, or attorney  
15 general shall include a statement setting forth the prohibition  
16 against retaliation pursuant to section 216.11, subsection 2.

17 Sec. 5. Section 216.15, subsection 3, paragraph a, Code  
18 2019, is amended to read as follows:

19 a. After the ~~filing~~ submission of a verified complaint, a  
20 ~~true copy~~ an accurate representation thereof shall be served  
21 within twenty days on the person against whom the complaint  
22 is ~~filed~~ submitted, except as provided in subsection 4.  
23 Additionally, with the complaint, a statement setting forth the  
24 prohibition against retaliation pursuant to section 216.11,  
25 subsection 2, shall be served. An authorized member of the  
26 commission staff shall make a prompt investigation and shall  
27 issue a recommendation to an administrative law judge employed  
28 either by the commission or by the division of administrative  
29 hearings created by section 10A.801, who shall then issue a  
30 determination of probable cause or no probable cause.

31 Sec. 6. ENHANCED REPORTING OF DISCRIMINATION AND SEXUAL  
32 HARASSMENT.

33 1. On or before December 15, 2019, the Iowa civil rights  
34 commission shall develop and implement enhanced mechanisms for  
35 employees and members of the public to submit complaints of



1 discrimination and sexual harassment in employment or in the  
2 course of a working relationship.

3 2. The methods shall include, at a minimum, an easy-to-use  
4 portal on the Iowa civil rights commission's website and a  
5 telephone hotline. Each method shall provide a clear statement  
6 that information submitted may be referred to the federal equal  
7 employment opportunity commission or a local agency that has  
8 jurisdiction over the complaint.

9 Sec. 7. PUBLIC EDUCATION AND OUTREACH.

10 1. On or before December 15, 2019, the commission on the  
11 status of women, in consultation with the Iowa civil rights  
12 commission, shall develop a public education and outreach  
13 program that is designed to make Iowa employees, employers,  
14 businesses, and members of the public aware of:

15 a. Methods for reporting employment and work-related  
16 discrimination and sexual harassment.

17 b. Where to find information regarding the following:

18 (1) The laws related to employment and work-related  
19 discrimination and sexual harassment.

20 (2) Best practices for preventing employment and  
21 work-related discrimination and sexual harassment.

22 c. Methods for preventing and addressing sexual harassment  
23 in the workplace.

24 2. The program may include the following:

25 a. Public service announcements.

26 b. Print and electronic advertisements.

27 c. Web-based and electronic training materials.

28 d. Printed information and training materials.

29 e. Model educational programs and curricula.

30 f. In-person seminars and workshops.

31 Sec. 8. REPORT BY THE IOWA CIVIL RIGHTS COMMISSION TO THE  
32 GENERAL ASSEMBLY, THE GOVERNOR, AND THE LEGISLATIVE SERVICES  
33 AGENCY. On or before January 15, 2020, the Iowa civil rights  
34 commission shall submit to the general assembly, the governor,  
35 and the legislative services agency a report. The report

1 shall include information regarding the implementation of the  
2 enhanced reporting mechanisms for instances of employment and  
3 work-related discrimination and sexual harassment, including  
4 all of the following:

5 1. A detailed description of how any existing reporting  
6 mechanisms were enhanced and any new reporting mechanisms that  
7 were implemented.

8 2. A summary of changes, if any, in the annual number  
9 of complaints of employment and work-related discrimination  
10 and sexual harassment received and the number of complaints  
11 resulting in an investigation, settlement, or actions in courts  
12 in Iowa, including state and federal courts, during calendar  
13 years 2019 and 2020 in comparison to calendar years 2017 and  
14 2018.

15 3. The number of employees and other persons that reported  
16 employment or work-related discrimination or sexual harassment  
17 to their employer, supervisor, or the person for whom they were  
18 working prior to making a complaint in comparison to the number  
19 that did not, and the reasons that employees and other persons  
20 gave for not reporting the discrimination or sexual harassment  
21 to their employer, supervisor, or the person for whom they were  
22 working prior to making a complaint.

23 4. Any suggestion for legislative action to enhance further  
24 the reporting mechanisms or to reduce the amount of employment  
25 and work-related discrimination and sexual harassment.

26 Sec. 9. MODEL POLICY AND POSTER BY THE IOWA CIVIL RIGHTS  
27 COMMISSION. On or before September 15, 2019, the Iowa civil  
28 rights commission shall create the model policy and model  
29 poster required pursuant to section 216.6B, subsection 5, to  
30 reflect the provisions of this Act.

31 Sec. 10. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
32 3, shall not apply to this Act.

33 Sec. 11. CONTINGENT EFFECTIVE DATE. The following take  
34 effect one month after the Iowa civil rights commission creates  
35 and makes the model policy and model poster publicly available

1 pursuant to section 216.6B, subsection 5:

2 The provisions of this Act enacting section 216.6B,  
3 subsections 3 and 4.

4 EXPLANATION

5 The inclusion of this explanation does not constitute agreement with  
6 the explanation's substance by the members of the general assembly.

7 This bill relates to sexual harassment in employment and  
8 working relationships.

9 NEW CODE SECTION 216.6B. The bill creates new Code section  
10 216.6B (additional unfair or discriminatory practice — sexual  
11 harassment in employment) in the Iowa civil rights Act. The  
12 bill defines sexual harassment similarly to Code section  
13 19B.12, but does not include the enumerated circumstances that  
14 are set forth as sexual harassment in that Code section.

15 The bill provides that all employers, employment agencies,  
16 and labor organizations have an obligation to ensure a  
17 workplace that is free from sexual harassment. Furthermore,  
18 the bill provides that all persons who engage a person to  
19 perform work or services have an obligation to ensure a  
20 working relationship with that person that is free from sexual  
21 harassment.

22 The bill requires that every employer adopt a written policy  
23 against sexual harassment and prescribes what the policy  
24 must include. The bill requires that the employer post the  
25 policy in a prominent and accessible location in the workplace  
26 and provide an individual written copy of the policy to all  
27 employees. The bill requires that employers provide copies  
28 of the written policies to employees upon hire and provides  
29 written copies of updated policies to employees when changes  
30 are made. These provisions of the bill are not effective until  
31 one month after the Iowa civil rights commission (commission)  
32 prepares and makes publicly available a model policy and model  
33 poster regarding sexual harassment, which is a requirement of  
34 the bill.

35 The bill provides that an assertion that an individual did

1 not receive the information required to be provided by the bill  
2 shall not result in the automatic liability of any employer  
3 to any current or former employee or applicant in any action  
4 alleging sexual harassment. The bill further provides that  
5 an employer's compliance with the notice requirements of the  
6 bill does not preclude the employer from liability for sexual  
7 harassment of any current or former employee or applicant.

8 The bill encourages employers and labor organizations to  
9 conduct annual education and training programs on the topic of  
10 sexual harassment.

11 The bill provides that an employer shall not require any  
12 employee or prospective employee, as a condition of employment,  
13 to sign an agreement or waiver that does any of the following:  
14 (1) prohibits, prevents, or otherwise restricts the employee or  
15 prospective employee from opposing, disclosing, reporting, or  
16 participating in an investigation of sexual harassment, or (2)  
17 except as otherwise permitted by state or federal law, purports  
18 to waive a substantive or procedural right to remedy available  
19 to the employee with respect to a claim of sexual harassment.

20 The bill sets forth what an agreement to settle a sexual  
21 harassment claim shall state, including that it does not  
22 waive any rights or claims that may arise after the date the  
23 settlement agreement is executed and that it does not prohibit,  
24 prevent, or otherwise restrict the individual who made the  
25 claim from exercising enumerated rights. The bill provides  
26 that an agreement to settle a sexual harassment claim that  
27 violates such provisions is void and unenforceable against the  
28 person who made the claim.

29 The bill provides that the commission, in order to assess  
30 compliance with the provisions of this new Code section,  
31 shall be able to, with 48 hours' notice, at reasonable times  
32 and without unduly disrupting business operations, enter and  
33 inspect any place of employment, question any person who is  
34 authorized by the employer to receive or investigate complaints  
35 of sexual harassment, and examine an employer's records,

1 policies, procedures, and training materials related to the  
2 prevention of sexual harassment and the requirements of the  
3 Code section. The bill requires the employer to at reasonable  
4 times and without unduly disrupting business operations make  
5 any persons who are authorized by the employer to receive or  
6 investigate complaints of sexual harassment and any records,  
7 policies, procedures, and training materials related to  
8 the prevention of sexual harassment and the requirements of  
9 the bill available to the commission or designee. The bill  
10 provides that following such an inspection and examination,  
11 the commission shall notify the employer of the results  
12 of the inspection and examination, including any issues or  
13 deficiencies identified, provide resources regarding practices  
14 and procedures for the prevention of sexual harassment that  
15 the employer may wish to adopt or utilize, and identify  
16 any technical assistance that the commission may be able to  
17 provide to help the employer address any identified issues  
18 or deficiencies. The bill provides that if the commission  
19 determines that it is necessary to ensure the employer's  
20 workplace is free from sexual harassment, the employer may be  
21 required, for a period of up to three years, to provide an  
22 annual education and training program that satisfies certain  
23 requirements set forth in the bill to all employees or to  
24 conduct an annual, anonymous working-climate survey, or both.

25 OTHER CODE SECTIONS. The bill amends Code section 19B.12 to  
26 include a requirement that all complaints of sexual harassment  
27 shall be forwarded to the employee accused of harassment and  
28 the supervisor of the complainant accompanied by a statement  
29 indicating that retaliation is prohibited by Code section  
30 216.11(2).

31 The bill amends the definition in Code section 216.2(15) of  
32 "unfair practice" or "discriminatory practice" to also include  
33 practices specified as unfair or discriminatory in new Code  
34 section 216.6B.

35 The bill amends Code section 216.15 to eliminate the

1 requirement that a complaint of discrimination with the  
2 Iowa civil rights commission be written. The bill also  
3 amends that Code section to state that if the commission,  
4 a commissioner, or the attorney general files a complaint,  
5 the complaint shall include a statement setting forth the  
6 prohibition against retaliation pursuant to Code section  
7 216.11(2). The bill provides that rather than serving a true  
8 copy of a verified complaint, the commission shall serve an  
9 accurate representation of a verified complaint. Finally,  
10 the bill amends that Code section to provide that after the  
11 submission of a verified complaint, a statement setting forth  
12 the prohibition against retaliation pursuant to Code section  
13 216.11(2) shall be served on the person against whom the  
14 complaint is filed, along with the complaint.

15 SESSION LAW. The bill provides that on or before December  
16 15, 2019, the Iowa civil rights commission shall develop and  
17 implement enhanced mechanisms for employees and members of  
18 the public to submit complaints of discrimination and sexual  
19 harassment in employment and in the course of a working  
20 relationship. The bill provides that the methods shall  
21 include, at a minimum, an easy-to-use portal on the Iowa  
22 civil rights commission's website and a telephone hotline.  
23 Each method shall provide a clear statement that information  
24 submitted may be referred to the federal equal employment  
25 opportunity commission or a local agency that has jurisdiction  
26 over the complaint.

27 The bill provides that on or before December 15, 2019,  
28 the Iowa commission on the status of women, in consultation  
29 with the Iowa civil rights commission, shall develop a public  
30 education and outreach program that is designed to make Iowa  
31 employees, employers, businesses, and members of the public  
32 aware of methods for reporting employment and work-related  
33 discrimination and sexual harassment and where to find  
34 information regarding the laws related to employment and  
35 work-related discrimination and sexual harassment, as well as

1 best practices for preventing employment discrimination and  
2 sexual harassment, and methods for preventing employment and  
3 work-related discrimination and sexual harassment. The bill  
4 sets forth what the program may entail.

5 The bill provides that on or before January 15, 2020, the  
6 Iowa civil rights commission shall submit to the general  
7 assembly, the governor, and the legislative services agency a  
8 report. The report shall concern the implementation of the  
9 enhanced reporting mechanisms for instances of employment and  
10 work-related discrimination and sexual harassment. The bill  
11 provides specific instructions for the report.

12 The bill provides that on or before September 15, 2019, the  
13 Iowa civil rights commission shall create the model policy and  
14 model poster required pursuant to new Code section 216.6B(5) to  
15 reflect the provisions of the bill.

16 The bill may include a state mandate as defined in Code  
17 section 25B.3. The bill makes inapplicable Code section 25B.2,  
18 subsection 3, which would relieve a political subdivision from  
19 complying with a state mandate if funding for the cost of  
20 the state mandate is not provided or specified. Therefore,  
21 political subdivisions are required to comply with any state  
22 mandate included in the bill.